FARAD CONTINUATION SHEET NO
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE

CIVIL APPLICATION NO. 2324 OF 2004
IN
FIRST APPEAL NO. 470 OF 2002

Office notes, office Memoranda of Coram, appearance, Court's orders or directions and Registrar's orders.

Court's or Judge's orders

Mr. A.S.Garge i/by R.S.Apte and P.R. Arjunwadkar for the Applicant.

Mrs. Neeta P. Karnik, Adv. for the Respondent.

CORAM : S.B. MHASE & R.S. MOHITE, JJ.
DATED : 13/09/2004

P.C.

1. Mr. Garge holding for Mr. Arjunwadkar states that the counsel engaged by them Mr. Apte has gone to Delhi and therefore, matter be adjourned. Mrs. Neeta Karnik for the respondent pointed out that for number of times the matter was adjourned. She further pointed out that the appeal has been already admitted and this application is

about the tenability of the appeal filed by the appellant. It is submitted that this can be considered at the time of final hearing. We also perused the application and find it proper that since the appeal has been admitted, the point involved in the application can be considered at the time of final hearing. The point involved in the Civil Application to be decided along with the main appeal.

3. The learned counsel Mr. Garge pointed out that in the civil application there are other prayers in respect of the deposit of the decretal amount. However, our attention was invited to the fact that the decretal amount has already been deposited as per the order dated 14.10.2003 in the Trial Court. It has been further pointed out that the civil application

filed by the present applicant for withdrawal of the said amount has been rejected by the Trial Court on 15.12.2003. In view of this fact, the interim relief claimed in this civil application in terms of prayer clause (b) does not survive and therefore, the civil application is rejected to that effect. However, it only survives in respect of prayer clauses (a) and the said reliefs will be considered at the time of final hearing. Accordingly the application is disposed of.

(R.S.MOHITE, J.) **(S.B.MHASE, J.)**